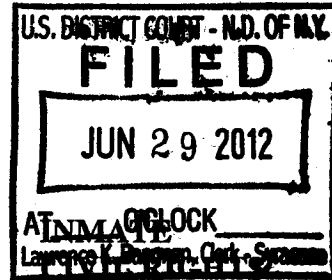


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK



NAKeem Archie
Plaintiff(s)

vs.

BRAIN FISHER Commissioner
OF CORR. SVCS. Medical Staff
(John Doe)
Defendant(s)
SUED IN OFFICIAL AND INDIVIDUAL
CAPACITIES.

COMPLAINT PURSUANT
42 U.S.C. § 1983

Case No. 9:12 CV 1050

Plaintiff(s) demand(s) a trial by: ☒ JURY ☐ COURT (Select only one.)

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 1343(3) and (4), and 2201.

PARTIES

2. Plaintiff: NAKeem Archie

Address: Upstate Correctional Facility, P.O. Box 2001, Malone, NY 12953.

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: BRAIN FISHER
Official Position: Comm. of Corr. Svcs.
Address: 1220 Washington Ave/Bldg 2
ALBANY, N.Y. 12226

b. Defendant:

Official Position:

Address:

(John Doe) Medical Staff

MEDICAL PERSONNEL

UPSTATE CORR. FAC.

Malone, N.Y. 12953

c. Defendant:

Official Position:

Address:

Additional Defendants may be added on a separate sheet of paper.

4. PLACE OF CONFINEMENT

a. Is there a prisoner grievance procedure at this facility?

☒ Yes

☐ No

b. If your answer to 4a is YES, did you present the facts relating to your complaint in this grievance program?

☒ Yes

☐ No

If your answer to 4b is YES,

(i) What steps did you take? File grievance at the

Facility, then appealed to
Commissioner's Office

(ii) What was the final result of your grievance? No action

was taken on grievances

If your answer to 4b is NO – why did you choose to not present the facts relating to your complaint in the prison's grievance program? _____

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

_____ Yes

_____ No

If your answer to 4c is YES,

- (i) What steps did you take? _____

- (ii) What was the final result of your grievance? _____

If your answer to 4c is NO – why did you choose to not complain about the facts relating to your complaint in such prison? _____

5. PREVIOUS LAWSUITS

- a. Have you filed any other lawsuits in any state and federal court relating to your imprisonment?

_____ Yes

_____ ☒ No

- b. If your answer to 5a is YES you must describe any and all lawsuits, currently pending or closed, in the space provided below.

For EACH lawsuit, provide the following information:

- i. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

STATEMENT OF FACTS

1. ON FEBRUARY 22, 2011, PLAINTIFF WAS TRANSFERRED FROM FIVE POINTS CORRECTIONAL FACILITY TO UPSTATE CORRECTIONAL FACILITY TO BEGAN SERVING A TERM FOR VIOLATING THE RULES AND REGULATIONS OF THE DEPARTMENT OF CORRECTIONS.
2. ON JUNE 2001, PLAINTIFF WAS ESCORTED BY C.O. SIMMONS AND MILLER, AND SGT. EDDY GAVE THESE OFFICERS THE AUTHORITY TO HAVE ME PLACED IN THE CELL WITH INMATE WASHINGTON "UNKNOWN" C-1-21, WHOM IS A KNOWN MEMBER OF THE "CRIPS" GANG A RIVAL GANG OF THE "BLOODS" AT WHICH TIME PLAINTIFF WAS ASSAULTED AND PHOTOGRAPHS OF THE INCIDENT, AND PLAINTIFF WAS INTERVIEWED BY FACILITY INVESTIGATION AFFAIRS PERSONNEL AT THIS FACILITY.
3. ON NOVEMBER 13, 2011, PLAINTIFF WAS THEN ASSAULTED BY C.O. E. WOODS BY THROWING FACILITY SHAVING CREAM PACKAGES AT PLAINTIFF, THEREAFTER,
4. EVERY INMATE RECEIVED IN THIS FACILITY IS INTERVIEWED BY A FACILITY SERGEANT AND ASK AS TO GANG AFFILIATIONS, PLAINTIFF INFORM SERGEANT GOKEY, THAT HE IS A KNOWN MEMBER OF THE "BLOODS" GANG. OFFICERS AT THIS FACILITY FOR YEARS HAVE BEEN PLACING RIVAL GANG MEMEBERS IN THE CELLS TO ASSAULT ONE ANOTHER, BUT NOT "WHITE" GANG MEMEBER ONLY "BLACK AND HISPANIC"

. Const-2

plaintiff filed an institutional grievance, at which time plaintiff property was destroyed by officer Wood and Officer King. After plaintiff institutional level was reduced, plaintiff court transcripts was destroyed, family photographs, and personal books, and plaintiff was then retaliated against.²

4. On February 16, 2012, plaintiff and his cell-mate Smith #11A2649, was being search and both were removed to a cell out of sight of the search which was performed by CO. Comstock directed by facility Sgt. Eddy. Thereafter, plaintiff was charged with a weapon and claim to have been seen placing this weapon in his cell toilet, which was false. Plaintiff cell^{mate} confessed to putting the weapon in the cell and signed an affidavit at which time plaintiff appealed these disciplinary infractions, at which time no determination has been made.

2. Plaintiff was given a restricted diet by R. Isabelle, which was done for incident on Nov 13, 2011, for that incident, but never medically examined as required, by rules.

Cont-3

5. On November 23, 2011, plaintiff was given a disciplinary infraction for violating prison Rule § 118.22, 107.10, 102.10, 124.15, AND 124.16, by C.O. Woods, for incident that occurred on November 13, 2011, plaintiff was given a restricted diet "breadloaf," but was never examined by the facility medical Department, this was done for seven-days, AND plaintiff was given (4) months additional in Special Housing Unit.

6. On March 22, 2012, plaintiff was taken out of his cell to be moved to another cell with inmate Brown, 10-C-22, but inmate Brown refused to permit plaintiff enter the cell, this was done by office Mcbeth, office Kating, then plaintiff was escorted to lower holding cell by these same officers, thereafter plaintiff was taken to another inmate cell Shan Hyatt[#] unknown, thereafter plaintiff was assaulted by this rival gang member which was witness by office Miller whom filed the disciplinary infraction, but did nothing to stop the assault.

Cont~~45~~

7. On April 27, 2012, plaintiff was ordered to step into his cell recreational cage at which time a inmate was ordered to come in the cell, but the inmate refused, at which time plaintiff remained in his recreational cage for more than (2) hours with no clothing on his person, this was done by officer Miller, but ordered by Sgt. Eddy, Sgt Eddy, refused to allow plaintiff to use the bathroom, then claimed to have found drugs belonging to plaintiff but this was not on the facility cameras watching plaintiff, this was retaliation for filing grievances against Sgt. Eddy, CO. Woods, CO. Mitchell, CO. Miller, CO. Garson, AND CO. St. Mary, CO. Hyde, AND plaintiff was then given disciplinary infraction for the drugs, AND order the restricted diet "loaf bread," by hearing officer Sticheney.

8. On May 1, 2012, plaintiff was assaulted by CO. St. Mary, CO. Grant, CO. Gale, CO. Drouchie, CO. Winston, CO. Mitchell, CO. Rolfe, AND Sgt. Eddy, CO. S. Lamare, CO. Wood. this was done on false pretense of an urinalysis test, at which plaintiff

Cont 5

WAS HANDCUFF THEN TAKE OUT THE CELL IN FRONT OF FACILITY CAMERAS AND FORCELY TAKEN TO THE GROUND EVEN THOUGH THE CAMERAS CLEARLY SHOW PLAINTIFF NOT RESISTING FOR DOING ANY VIOLENTLY ACTIONS TOWARDS THE OFFICERS. ONCE PLAINTIFF WAS TAKEN TO GROUND WHERE HE WAS ASSAULTED, THEN PLAINTIFF WAS FALSELY GIVEN A DISCIPLINARY INFRACTION FOR THE FILING OF GRIEVANCES AGAINST THESE OFFICERS FOR PREVIOUS THREATS, AND FALSE INFRACTIONS.

9. ON MAY 15, 2012, PLAINTIFF LIFE WAS AGAIN PUT IN DANGER WHEN PLAINTIFF WAS PLACED IN A CELL WITH A KNOW RIVAL GANG MEMBER OF THE "CRIPS" TO ASSAULT PLAINTIFF. THIS WAS ORDERED BY SGT. EDDY AND CO. (JOHN DOE'S) INMATE "BODRICK" IIR 3176, WAS THE INMATE OF THE "CRIPS" GANG AND PLAINTIFF IS OF THE "BLOODS." PLAINTIFF WAS GIVEN AN ADDITIONAL DISCIPLINARY INFRACTION THIS WAS DONE TO KEEP PLAINTIFF AT THIS FACILITY TO BE CONTINUALLY ASSAULTED AND HIS RIGHTS VIOLATED.

10. PLAINTIFF FILED GRIEVANCES AS TO ALL THESE CLAIMS AND NOTIFY BRAN FISHER, COMMISSIONER WHOM DID NOTHING TO PROTECT PLAINTIFF AGAINST THESE OFFICERS AND THEIR CONDUCT.

11. Plaintiff contacted Upstate Correctional Facility Superintendent and informed him of the officers threats, an assaults before these incidents happen and nothing was done after these actions by the corrections officers.

12. Plaintiff was never psychally examined when given restricted diet "loaf bread" by medical personnel, and plaintiff was not authorized to be given this "diet restriction" under rules and regulations of Department of Corrections.

ii. Court (if federal court, name District, if state court, name County):

iii. Docket number:

iv. Name of Judge to whom case was assigned:

v. Disposition (dismissed? on appeal? Currently pending?):

vi. Approximate date of filing of prior lawsuit:

vii. Approximate date of disposition:

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (you may use additional sheets if necessary).

SEE ATTACHED STATEMENT OF FACTS:

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

SEE ATTACHED PAPERS:

SECOND CAUSE OF ACTION

THIRD CAUSE OF ACTION

FIRST CAUSE OF ACTION

Plaintiff rights by defendants under paragraph (2) was violated when the defendants placed plaintiff in the cell to be assaulted by a rival gang member and failed to protect plaintiff from cruel and unusual punishment under U.S. Eighth Amendment, and violated plaintiff U.S. Fourteenth Amendment rights under Due Process Clause by failing to assist plaintiff under the state rules and regulations.

SECOND CAUSE OF ACTION

Plaintiff rights was violated by defendants in paragraph (3) when plaintiff was assaulted by defendants and his court transcripts destroyed which violated plaintiff rights under U.S. Fourteenth Amendment and U.S. First Amendment to access to the court on his pending direct appeal plaintiff could not file a supplemental brief and violated plaintiff rights under U.S. Constitution of Fourteenth for Due Process for Retaliation.

Third Cause of Action

Plaintiff U.S. Rights under Eight Amend WAS VIOLATED WHEN DEFENDANT WAS ORDERED TO BE PLACED UPON RESTRICTED DIET "LOAF BREAD" WHICH CAUSED PLAINTIFF TO BECOME ILL WITH VOMITING, HEADACHES, BODY ACHES, AND NUMBNESS IN HIS FACE AND HANDS, WHICH WAS CRUEL AND UNUSAL PUNISHMENT FOR THE DENIAL OF FOOD BY THE DEFENDANT IN PARAGRAPH (7) AND FOOTNOTE (2) DEFENDANT R. ISABELLA, WHEN PLAINTIFF WAS NOT GIVEN ANY OF THE NECESSARY PRE-MEDICAL EVALUATION REQUIRED BY RULES, BEFORE PLACING PLAINTIFF ON THE RESTRICTED DIET, AND RESTRICTED DIET WAS NOT TO BE GIVEN TO PLAINTIFF FOR PUNISHMENT FOR HIS INFRACTIONS.

Fourth Cause of Action

Plaintiff U.S. rights under Fourteenth Amendment Due Process Clause AND U.S. Eight Amendment to Equal Protection FOR DEFENDANTS UNDER PARAGRAPH (4) PLACING WEAPON IN PLAINTIFF'S CELL AND FILING FALSE DISCIPLINARY INFRACTIONS AGAINST PLAINTIFF.

FIFTH CAUSE OF ACTION

Plaintiff rights under U.S. Eight Amendment for defendants in paragraph (5) was violated when defendant was placed on restricted diet "breadloaf" by Medical Department in absence of the medical regulations ordered by UNKNOWN JOHN DOE defendants in paragraph (5) which was cruel and unusual punishment for failure to provide adequate food, which cause plaintiff to lose weight and continue to be ill, with headaches, and consist vomiting.

SIXTH CAUSE OF ACTION

Plaintiff rights under U.S. Fourteenth and U.S. Eight Amendment by defendant CO. Woods for false writing disciplinary infractions in retaliation of plaintiff filing state grievances against defendants.

SEVENTH CAUSE OF ACTION

Plaintiff rights under U.S. Fourteenth and Eight Amendment of Due Process Clause cruel and unusual punishment for failure to protect plaintiff by placing plaintiff in cell with rival gang members by defendants in paragraph (6), and false disciplinary dispositions against plaintiff, and failure to protect plaintiff from assaults by knowing these were rival gang members from the records keep in prison gang unit.

Eight Cause of Action

Plaintiff rights under U.S. Eight Amend to cruel AND UNSUAL punishment when defendants when IN paragraph (7) Keep plaintiff in the "cold weather refused to allow plaintiff to use facility restroom, or to eat his state dinner AND Asely retaliated by given disciplinary infractions AND order to be given the restricted diet "loaf bread," All this Also A violation of plaintiff rights under U.S. Fourteenth Amendment of due process clause, U.S. Fifth Amend to Equal treatment.

NINE Cause of Action

Plaintiff rights under U.S. Eight Amend of cruel AND UNSUAL punishment when defendants ~~UNIL~~ ASSAULTED plaintiff these defendants IN paragraph (7) did this to plaintiff because plaintiff filed A grievance against the defendants AND defendant order plaintiff on A restrictive diet by defendant IN paragraph (7) AND medical department personnel which WAS AGAINST rules of department of corrections which CAUSE plaintiff to be ill, with headaches, vomiting, All AGAINST U.S. Eight Amend, to medical Attention.

Ten CAUSE OF ACTION

Plaintiff rights by defendants in paragraph (8) was violated when plaintiff was assaulted by defendants under U.S. Eight Amendment to cruel and unusual punishment when plaintiff was beaten when plaintiff was handcuffed and this was done in the facility camera view and then plaintiff was given falsely disciplinary infractions for filing grievances against these defendants.

Eleven CAUSE OF ACTION

Plaintiff rights by defendants in paragraph (9) was violated when plaintiff was placed in cell with a rival gang member to be assault which was done by the defendants in violation of his rights under U.S. Eight Amendment to cruel and unusual punishment and to care and custody for the safety of his life, when these defendants knew these were rival gang members by facility gang unit records and these officers were consistently using same inmates over several years to assault each other.

Twelve CAUSE OF ACTION

Plaintiff rights under the U.S. Const. Amend of Eight Amendment to cruel AND UNUSAL punishment when defendants IN paragraph (10) KNEW that his officers where violating plaintiff rights by ASSAULTING plaintiff AND placing weapons on plaintiff AND writing false disciplinary infractions when plaintiff filed letters AND grievances to the Commissioner's office before these incidents occurred, AND the defendant failed to protect plaintiff under the U.S. fourteenth Amendment of Due Process Clause AND plaintiff needs to medical AND to protect plaintiff.

Thirteenth CAUSE OF ACTION

Plaintiff rights under U.S. Eight Amend to be protected from ASSAULTS, false charges, under cruel AND UNUSAL punishment by the defendants IN paragraph (10) AND thier failure to assist plaintiff WAS VIOLATED BECAUSE these defendants KNEW OF these correctional officers conduct before it happen AND failed to protect plaintiff, when plaintiff informed defendant prior to these actions by the correction officers.

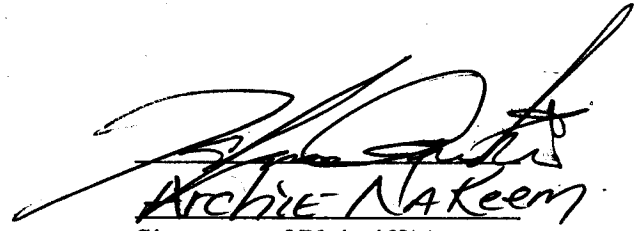
8. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF(S) REQUEST(S) THAT THIS Court grant the following relief:

Plaintiff seeks punitive damages from each of defendants for violating plaintiff rights under Fifth and U.S. Eight Amendment & Fourteenth in amount of 4 million dollars. Plaintiff seeks compensatory damages from each defendant in amount of 4 millions for violating rights under Eight and Fourteenth Amendment of constitution.

I declare under penalty of perjury that the foregoing is true and correct

DATED: 6/20/12



Signature of Plaintiff(s)
(all Plaintiffs must sign)